



September 24, 2019

VIA ELECTRONIC DELIVERY

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Investment Adviser Advertisements; Compensation for Solicitations, Release No. IA-5407; File No. S7-21-19

Dear Ms. Countryman:

The Institute for Portfolio Alternatives (“IPA”) is pleased to submit this letter in response to the request by the U.S. Securities and Exchange Commission (the “Commission”) for comments regarding the above-referenced proposed rule (the “Proposal”).

For over 30 years the IPA has raised awareness of portfolio diversifying investment products among stakeholders and market participants, including investment professionals, policymakers and the investing public. Our membership includes fund sponsors as well as intermediary partners including broker-dealers and investment advisers. The IPA supports increased access to investment strategies with low correlation to the equity markets: lifecycle real estate investment trusts (Lifecycle REITs), net asset value REITs (NAV REITs), business development companies (BDCs), interval funds and direct participation programs (DPPs). IPA member firms support individual investor access to a wide variety of asset classes that have historically been available only to institutional investors. These investment products have been held in the accounts of more than 3 million individual investors. With over \$135 billion in capital investments, they remain a critical component of an effectively balanced investment portfolio and serve an essential capital formation function for national, state and local economies. Through advocacy and industry-leading education, the IPA is committed to ensuring that all investors have access to real assets and the opportunity to effectively balance and diversify their investment portfolios.

The IPA writes to commend the Commission for proposing to update its rules to reflect technology advancements, investor expectations, and current industry practices. The advertising and solicitation rules have not been updated comprehensively since 1961 and 1979, respectively, apart from no action relief and ad hoc treatment. We believe that standardizing the treatment of registered investment adviser advertising and solicitation practices with principles-based provisions is the correct approach. We also appreciate that

the Proposal excludes BDCs from the new definition of “advertisement” which is consistent with existing rules currently governing marketing and advertisement by BDCs under the Securities Act of 1933.¹

We support the Commission finalizing this important rulemaking, but encourage the Commission to coordinate any reforms with FINRA to ensure that broker-dealer advertising is consistent with the Commission’s treatment of such reforms for registered investment advisers. We appreciate that the Commission staff has expressed a reluctance to “create a new standard out of whole cloth or simply adopt obligations and duties that have developed under a separate regulatory regime to address a different type of relationship” as the basis for preserving different treatment of registered investment advisers and broker-dealers.² The IPA believes, however, that advertising by both registered investment advisers and broker-dealers is an area in which the “unique characteristics” of the relationship between the financial intermediary and the client is not implicated,³ and would provide enhanced investor protection from uniformity of treatment by the Commission and FINRA. We look forward to discussing the intersection of broker-dealer and investment adviser advertising with the Commission in more detail as this rule proposal moves forward.

If the IPA may be of any assistance, please do not hesitate to contact me or Anya Coverman, IPA’s Senior Vice President, Government Affairs and General Counsel, at (202) 548-7190.

Sincerely,



Anthony Chereso
President & CEO, Institute for Portfolio Alternatives

¹ 17 CFR §230.156 (Investment Company Sales Literature) and 17 CFR §230.482 (Advertising by an Investment Company) (2019).

² See Regulation Best Interest, Securities Exchange Act Release No. 83062 (April 18, 2018) [83 FR 21574 (May 9, 2018)].

³ Id.